S.B.CIVIL WRIT PETITION NO.4334/2005

Bhupendra Rawat
v.
State of Rajasthan & Ors.

Date of Order :: 23rd November, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Arjun Purohit, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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By this petition for writ a challenge is given to the order dated 13.7.2005 whereby the Chief Executive Officer, Zila Parishad, Dungarpur transferred the petitioner as Gram Sewak-cum-officiating Secretary from Panchayat Samiti Sagwara to Panchayat Samiti Simalwara. The order aforesaid is passed in view of a decision taken by the Establishment Committee/Standing Committee of Zila Parishad, Dungarpur.

While giving challenge to the order aforesaid, the contention of counsel for the petitioner is that the order impugned is passed in violation of Rule 289 of the Rajasthan Panchayati Raj Rules 1996 (hereinafter referred to as “the Rules of 1996”). The Rule 289 prescribes that the name of the employee desiring transfer or desired to be transferred within the district shall be communicated to the District Establishment Committee by the Panchayat Samiti and such an employee shall be

transferred by the Panchayat Samiti or Zila Parishad concerned on the recommendation of the District Establishment Committee. According to the petitioner his case for transfer was never communicated to the District Establishment Committee by the Panchayat Samiti and, therefore, there was no initiation for transfer as required under Rule 289 of the Rules of 1996.

On behalf of the respondents a reply to the writ petition has been filed and there is no specific denial with regard to the contention that the order dated 13.7.2005 was passed by the Chief Executive Officer of Zila Parishad, Dungarpur without having any initiation for transfer at the behest of the Panchayat Samiti as prescribed under Rule 289 of the Rules of 1996. In view of it the contention of the petitioner that there was no initiation for his transfer by the Panchayat Samiti stands established. Accordingly the transfer of the petitioner by the order impugned dated 13.7.2005 is illegal.

The writ petition, therefore, is allowed. The order dated 13.7.2005 is quashed to the extent it relates to the petitioner.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.